

Broadband telephony applications, including FWD, are not a "telecommunications service" as that term was conceived by the legislature when drafting the relevant rules which were incorporated into the Telecommunications Act of 1996.

This position is supported by, inter alia, the fact that broadband telephony services such as FWD are, in essence, little more than directories that users access to add value to existing Internet connectivity. Users access these directories (known as registrars and/or proxy servers) only to find the coordinates of other users who belong to the same directory service. Once the coordinates are known, the actual transmission path of a voice conversation in a broadband telephony call is provided by the ISPs and other access providers that make the Internet a viable means of transmitting information between two points.

As other directory services have consistently been treated as informational services by the FCC (and, thus, beyond the scope of regulations applicable to "telecommunications services"), it would be inconsistent to rule otherwise in this matter.